

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
*Western Division***

THE PROCTER & GAMBLE COMPANY,)
)
Plaintiff,)
)
v.)
)
THE COCA-COLA COMPANY,)
)
Defendant.)
)

**THE COCA-COLA COMPANY'S UNOPPOSED MOTION FOR ENLARGEMENT OF
TIME TO RESPOND TO THE PROCTER & GAMBLE COMPANY'S MOTION FOR
PARTIAL SUMMARY JUDGMENT ON THE COCA-COLA COMPANY'S DEFENSE
OF EQUITABLE ESTOPPEL**

The Coca-Cola Company ("Coca-Cola"), through counsel, respectfully moves for an enlargement of time to respond to The Procter & Gamble Company's ("P&G") Motion for Partial Summary Judgment on The Coca-Cola Company's Defense of Equitable Estoppel. Counsel for P&G has indicated that P&G will not oppose this Motion. A Proposed Order is attached.

Essentially, the relief sought is premised on an extension of the same grounds for an enlargement of time set forth in Coca-Cola's previous Motion, which the Court granted. *See* Docket No. 88. It remains the case that any motion for summary judgment may be obviated by the Court's decision on claim construction. The January 24, 2005 Order set the current due date for filing Coca-Cola's response to P&G's motion to either 30 days following the issuance of the Court's ruling on claim construction, or, in the alternative, April 20, 2005. *See* Docket No. 90. Consistent with that Order, Coca-Cola respectfully requests an identical extension of the deadline for responding to P&G's summary judgment motion until either 30 days following the

issuance of the Court's decision on claim construction, or, in the alternative, July 20, 2005, whichever date is later. In the event the Court denies this Motion, Coca-Cola respectfully requests that the Court extend the due date for responding to P&G's motion for summary judgment until 21 days after the date of its Order.

Dated: April 19, 2005

By: /s/Roger Makley

Roger J. Makley
Trial Attorney (Reg. No. 0018702)
COOLIDGE, WALL, WOMSLEY & LOMBARD
33 West First Street, Suite 600
Dayton, Ohio 45402
Telephone: (937) 223-8177
Facsimile: (937) 223-6705
E-mail: makley@coollaw.com

TRIAL COUNSEL FOR DEFENDANT
THE COCA-COLA COMPANY

Donald R. Dunner, Esq. (admitted *pro hac vice*)
Gerald F. Ivey, Esq. (admitted *pro hac vice*)
Christopher P. Isaac, Esq. (admitted *pro hac vice*)
Robert L. Burns, Esq. (admitted *pro hac vice*)
Christopher W. Day, Esq. (admitted *pro hac vice*)
Michele L. Mayberry, Esq. (admitted *pro hac vice*)
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, DC 20001-4413
Telephone: (202) 408-4000
Facsimile: (202) 408-4400

Michael J. Kline, Esq.
Michael V. Kruljac, Esq.
The Coca-Cola Company
P.O. Box 1734
Atlanta, GA 30301
Telephone: (404) 676-3162
Facsimile: (404) 676-7636

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
*Western Division***

THE PROCTER & GAMBLE COMPANY,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. C-1-02-393
v.)	
)	Hon. Walter Herbert Rice
THE COCA-COLA COMPANY,)	Hon. Sharon L. Ovington (Magistrate)
)	
Defendant.)	
)	

PROPOSED ORDER

Upon consideration of The Coca-Cola Company's ("Coca-Cola") Motion for Enlargement of Time to Respond to The Procter & Gamble Company's ("P&G") Motion for Partial Summary Judgment on The Coca-Cola Company's Defense of Equitable Estoppel, it is ORDERED that the Motion is GRANTED, and Defendant's, The Coca-Cola Company, time for responding to The Procter & Gamble Company's ("P&G") Motion for Partial Summary Judgment on The Coca-Cola Company's Defense of Equitable Estoppel is extended until 30 days following the issuance of the Court's decision on claim construction or, in the alternative until July 20, 2005, whichever date is later.

Dated: _____

The Honorable Walter H. Rice
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of THE COCA-COLA COMPANY'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO THE PROCTER & GAMBLE COMPANY'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE COCA-COLA COMPANY'S DEFENSE OF EQUITABLE ESTOPPEL and PROPOSED ORDER was filed electronically on this 19th day of April, 2005. Notice of this filing will be sent to the parties by operation of the Court's CM/ECF electronic filing system.

/s/Christopher W. Day

Christopher W. Day